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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,720	09/26/2001	James A. Powell	17674 (13201US01)	9296

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EXAMINER

LEON, EDWIN A

ART UNIT

PAPER NUMBER

2833

DATE MAILED: 03/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/963,720

Applicant(s)

POWELL ET AL.

Examiner

Edwin A. León

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed December 23, 2002 in which Claims 1-26 and 29 have been amended, and Claim 27-28 have been cancelled, has been placed of record in the file as Paper No. 8.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15, 18-25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denovich et al. (U.S. Patent No. 6,254,421) in view of Boron et al. (U.S. Patent No. 6,284,977). With regard to Claims 1-2 and 29, Denovich et al. discloses a connector (110) comprising: a housing (112) defining an interior channel (166) and having two opposing sides (162), wherein the housing (112) includes opposing first (area around 16) and second (area around 18) engagement surfaces defining at least one opening (16,18); and a crimping device (114) movably positioned inside the housing (112). See Figs. 6-10.

However, Denovich et al. doesn't show the at least one opening having at least one indent.

Boron et al. discloses a splice connector (10) having a housing (20) including at least one opening (56) having at least one indent (58). See Fig. 1.

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the connector of Denovich et al. by including at least one indent in the at least one opening as taught in Boron et al. in order to make the connector suitable for a wide variety of mating connectors.

With regard to Claim 3, Denovich et al. discloses the housing (112) being formed of a nonconductive material. See Figs. 6-10.

With regard to Claims 4-6, and 19-21, the combination of Denovich et al. and Boron et al. discloses the claimed invention except for the housings formed of a polycarbonate material, a polyester material, or a polypropylene material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the housings of a polycarbonate material, a polyester material, or a polypropylene material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With regard to Claim 7, Denovich et al. discloses the housing (112) being formed of at least two different materials. See Figs. 6-10.

With regard to Claim 8, Denovich et al. discloses the crimping device (114) being positioned in the housing (112) adjacent the channel (166). See Figs. 6-10.

With regard to Claim 9, Denovich et al. discloses a crimping portion (168). See Figs. 6-10.

With regard to Claim 10, Denovich et al. discloses a lower surface (lower part of 168) in the crimping portion (168). See Figs. 6-10.

With regard to Claim 11, Denovich et al. discloses the housing (112) including opposing first (116) and second engagement (160) surfaces defining at least one opening (168) fluidly communicating with the channel (166). See Figs. 6-10.

With regard to Claim 12, Denovich et al. discloses the first (116) and second engagement (160) surfaces defining a first pair of planes different from a pair of planes defined by the two opposing sides. See Figs. 6-10.

With regard to Claim 13, Denovich et al. discloses the crimping portion (168) defining at least one opening fluidly communicating with the channel (166). See Figs. 6-10.

With regard to Claim 14, Denovich et al. discloses a connecting plate (124) adjacent the channel (166). See Figs. 6-10.

With regard to Claim 15, Denovich et al. discloses a telsplice stick device (110) comprising: a first connector (Fig. 10) having a housing (112) and opposing sides; and a second connector (Fig. 10) having a housing (112) and opposing sides, wherein the housings (112) include opposing first (area around 16) and second (area around 18) engagement surfaces defining at least one opening (16,18); wherein at least one of the opposing sides of the first connector (Fig. 10) is removably connected to one of the sides of the second connector (Fig. 10). See Figs. 6-10.

However, Denovich et al. doesn't show the at least one opening having at least one indent.

Boron et al. discloses a splice connector (10) having a housing (20) including at least one opening (56) having at least one indent (58). See Fig. 1.

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the connector of Denovich et al. by including at least one indent in the at least one opening as taught in Boron et al. in order to make the connector suitable for a wide variety of mating connectors.

With regard to Claim 18, Denovich et al. discloses the housings (112) being formed of a nonconductive material. See Figs. 6-10.

With regard to Claim 22, Denovich et al. discloses the first connector (Fig. 10) housing (112) being formed of one nonconductive material and the second connector (Fig. 10) housing (112) being formed of a second nonconductive material. See Figs. 6-10.

With regard to Claim 23, Denovich et al. discloses a crimping device (114) being positioned in each of the housings (112) adjacent to a channel (166) defined therein. See Figs. 6-10.

With regard to Claim 24, Denovich et al. discloses the first and second connectors (Fig. 10) further including a crimping portion (168). See Figs. 6-10.

With regard to Claim 25, Denovich et al. discloses a connecting plate (124) adjacent to the channel (166). See Figs. 6-10.

4. Claims 16-17, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denovich et al. (U.S. Patent No. 6,254,421) in view of Boron et al. (U.S. Patent No. 6,284,977) and Teytaud (U.S. Patent No. 4,219,249). The combination of Denovich et al. and Boron et al. discloses the claimed invention except for the use of ultrasonic weld to connect the first and second connectors.

Teytaud discloses the use of ultrasonic weld to connect different connectors. See Figs. 1-3 and Column 2, Lines 15-33.

Thus, it would have been obvious to one with ordinary skill in the art to modify the connector of Denovich et al. and Boron et al. by using ultrasonic weld to connect the connectors as taught in Teytaud to obtain an easy and accomplished weld between the connectors.

### ***Response to Arguments***

5. Applicant's arguments filed December 23, 2002 have been fully considered but they are not persuasive. In response to Applicant's argument regarding Claims 1, 15, 19-21 and 26, that the Denovich et al. reference does not show the at least one opening having at least one indent, Applicant is reminded that this is a new limitation in the claims. However, as stated in the above rejection Boron et al. discloses a splice connector (10) having a housing (20) including at least one opening (56) having at least one indent (58). Therefore, the Examiner considers that one with ordinary skill in the art would modify the connector of Denovich et al. by including at least one indent in the at

Application/Control Number: 09/963,720  
Art Unit: 2833

least one opening as taught in Boron et al. in order to make the connector suitable for a wide variety of mating connectors.

In response to Applicant's argument regarding Claims 4-6 and 19-21 that the Denovich et al. reference does not show the housings being formed of a polycarbonate material, a polyester material, or a polypropylene material. As mentioned in the rejection, the Examiner considers that it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the housings of a polycarbonate material, a polyester material, or a polypropylene material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

In response to Applicant's argument regarding Claim 26 that the combination of Denovich et al. and Teytaud does not show the weld being capable of being broken during the connection of the at least two electrical cables, Applicant is reminded that it has been held that the recitation that an element is "capable of" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make



Art Unit: 2833

the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, In this case, it is well known in the art of electrical connector the use of ultrasonic welding to connect two separate connectors as taught in Teytaud. Therefore, the Examiner considers that it would have been obvious to one with ordinary skill in the art to connect the connectors of Denovich et al. by using ultrasonic weld as taught in Teytaud to obtain an easy and accomplished weld between the connectors.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin A. León whose telephone number is (703) 308-6253. The examiner can normally be reached on Monday - Friday 9:00-5:30.

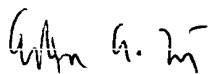
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A. Bradley can be reached on (703) 308-2319. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Application/Control Number: 09/963,720

Page 9

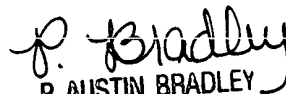
Art Unit: 2833

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Edwin A. Leon  
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March 2, 2003



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